

9-29-10 Appreview (2)

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1 COUNTY OF HUDSON
2 STATE OF NEW JERSEY
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3 In Re: APPLE VIEW
4 7009-7101 RIVER ROAD
5 NORTH BERGEN, NEW JERSEY 07047
6 CASE NO. 4-10

Applicant.

-----X

7
8 September 29, 2010
9 7:05 p.m.

10 B E F O R E:

THE NORTH BERGEN PLANNING BOARD

12 PRESENT:

13 HARRY D. MAYO, III, Chairman
14 SEBASTIAN ARNONE, Member
15 PATRICIA BARTOLI, Member
16 REHAB AWADALLAH, Alternate Member
17 MANUEL FERNANDEZ, Alternate Member

18 GITTLEMAN, MUHLSTOCK & CHEWCASKIE, ESQS.
19 Attorneys for the Planning Board
20 BY: Steven Muhlstock, Esq.

21 Geraldine Baker, Board Clerk
22 Jill Hartmann, Board Planner
23 Derek McGrath, Board Engineer

24 Reported by:
25 CELESTE A. GALBO, CCR, RPR, RMR

Celeste A. Galbo, CSR, RMR

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A P P E A R A N C E S:

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Montvale, New Jersey
BY: JOHN J. LAMB, ESQ.

MARIA GESUALDI, ESQ.
Attorney for Objector Township of
Guttenberg
6806 Bergenline Avenue
Guttenberg, New Jersey 07093

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1 THE CHAIRMAN: Meetings is called to
2 order. Pursuant to the Open Public Meetings Act
3 please be advised that notice of this meeting was
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4 faxed to the "Journal Dispatch" and "Bergen
5 Record" on September 13th, 2010 advising that the
6 North Bergen Planning Board would hold a special
7 meeting on September 29th, 2010 at 7 p.m. in the
8 chambers of the municipal building located at
9 4233 Kennedy Boulevard, North Bergen, New Jersey
10 07047. Board members, attorneys and applicants
11 were mailed notices on that date and a copy of
12 this notice was posted on the bulletin board in
13 the lobby of the municipal building for public
14 inspection.

15 Jerry, please call the roll.

16 (Whereupon roll call is taken and
17 Vice Chairman George Ahto, Jr., Members Robert
18 Baselice, Steven Somick and Richard Locricchio
19 are absent.)

20 DEREK MCGRATH, having been duly sworn by the
21 Notary Public, was examined and testified as
22 follows:

23 JILL HARTMANN, having been duly sworn by the
24 Notary Public, was examined and testified as
25 follows:

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1 THE CHAIRMAN: Okay, Case No. 4-10,
2 7009 to 7101 River Road. Counselor.

3 MR. ALAMPI: Thank you, Chairman.
4 Again, for the record my name is Carmine Alampi,
5 A-L-A-M-P-I, I'm the attorney representing the

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6 applicant and property owner Apple View, LLC.
7 Since we were here last in July we had taken upon
8 ourselves to recirculate the -- copies of the
9 grading drainage and Utility Soil Erosion Control
10 Plan dated last revised August 31, 2010. We also
11 had provided the Storm Water Drainage Analysis
12 revised also August 13th, 2010 and the Traffic
13 Impact Study last revised June 10th of 2010.
14 These were provided directly to the board's
15 engineers and planners, to Mr. Lamb and other
16 attorneys of interest as well as to the board.
17 And I know that they have been circulated because
18 we've received some comment letters.

19 In addition to that circulation we
20 provided a preliminary geotechnical engineering
21 report last revised June 10, 2010. Subsequent to
22 that circulation of all the plans which was
23 effected and they were delivered on that
24 September 2nd, 2010 we were able to have the
25 rigging equipment on site to do additional bore

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1 testing and to do some excavation as requested by
2 the board. And so after doing the additional
3 site work and evaluation we produced a supplement
4 to the preliminary geotechnical report. This is
5 dated September 16, 2010 and we'll have testimony
6 on these details this evening. All of these of
7 course were circulated again to the board, to the
8 experts and the professionals of the town and to

9 the adversary and objectors' attorneys.

10 with that, Chairman, I'd like to
11 mark, were had left off, I believe, at A-7.

12 MR. MUHLSTOCK: That's correct.

13 MR. ALAMPI: And I think it would be
14 appropriate to mark and that will move them into
15 the evidence column with the testimony of the
16 witnesses. We should have the storm drainage
17 analysis as A-8, please --

18 MR. MUHLSTOCK: Why don't you go
19 through on the record, give them numbers,
20 indicate what the report is titled and then we'll
21 have the court reporter mark them.

22 MR. ALAMPI: A-8 is the Storm Water
23 Drainage Analysis last revision date is August
24 31, 2010. Grading, Drainage Utility and Soil
25 Erosion Control Plan last revision is August 31,

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1 2010. We'll marked that as A-9. The Traffic
2 Impact Study last revision is June 10, 2010, mark
3 that as A-10.

4 (Applicant's Exhibit 8, Storm Water
5 Drainage Analysis with a revision date of
6 August 31, 2010, was marked for
7 identification.)

8 (Applicant's Exhibit 9, Grading,
9 Drainage Utility and Soil Erosion Control Plan
10 with a revision date of August 31, 2010, was

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marked for identification.)
12 (Applicant's Exhibit 10, Traffic
13 Impact Study, was marked for identification.)
14 MR. ALAMPI: I don't think I need to
15 mark the transmittal letters that accompanied
16 these exhibits and outlined the various changes
17 to the plan and the receipt. I'm not going to
18 mark that, I think everybody has it. And as I
19 indicated, the Preliminary Geotechnical Report
20 updated and revised through June 10, 2010 that, I
21 believe, is A-11.
22 (Applicant's Exhibit 11, Preliminary
23 Geotechnical Report updated and revised through
24 June 10, 2010, was marked for identification.)
25 MR. ALAMPI: Now, we're going to

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1 mark the supplement to the Preliminary
2 Geotechnical Engineering Report, it's dated
3 September 16th and this will be A-12.
4 (Applicant's Exhibit 12, Preliminary
5 Geotechnical Engineering Report dated
6 September 16th, 2010, was marked for
7 identification.)
8 MR. ALAMPI: We received two letters
9 from Boswell Engineering, one is dated September
10 16th, 2010. This letter indicates or it's
11 addressed to Frank Pestana from the Utilities
12 Authority and there's a recommendation by your
13 engineer that even though this project does not
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14 need or does not add to the augmenting of the
15 pumping system at the Woodcliff Lake plant, it's
16 less than the number originally proposed, the
17 office still recommends to the planning board
18 that we be required, that is Apple view, LLC be
19 required to make a \$25,000 contribution for
20 off-site improvements. It's not allocated to any
21 particular matter or need, I'm aware of it.

22 I did call the Municipal Utilities
23 Authority to understand what it was about. It
24 does not seem to be articulated with any
25 specificity, but there is some level of impact.

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1 We are not resistive to the same and will agree
2 if this application is approved and is final and
3 unappealable, that we would abide by a monetary
4 contribution for off-site improvements.

5 We also received a letter dated
6 September 28, 2010, that's yesterday, addressed
7 from Boswell to your planning board secretary,
8 Ms. Gerry baker. It indicates that there's been
9 review of the latest plan sheets that was
10 submitted that this response to the storm water
11 comments and the storm water management that's
12 currently under review, there's a request that we
13 follow up with the lighting comments and the
14 soils report but Mr. McGrath, it doesn't seem
15 that you had the opportunity yet to review the

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16 supplement, the September 16th supplement to the
17 geotechnical report.

18 MR. MCGRATH: I'm aware it's there.

19 MR. ALAMPI: Right, so that will
20 come up in your next review?

21 MR. MCGRATH: Yeah.

22 MR. ALAMPI: And there was a
23 discussion about the sanitary sewer and the size
24 of it. We have no comments, no objections and no
25 exceptions to these comment letters or reports.

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1 THE CHAIRMAN: All right. I want to
2 note that both parties including the objectors
3 attorneys are copied on all these comments.

4 MR. ALAMPI: With that in mind we
5 were concluding, I believe, the cross-examination
6 of Mr. Bertin but we did hold off on the
7 geotechnical since the board asked us to return
8 to the site and do some additional borings and
9 testing. I agreed that we would recall
10 Mr. Bertin to address that issue and of course
11 Mr. Lamb and others will have an opportunity to
12 cross-examine. When we conclude that process, I
13 have also brought forward an associate from the
14 Bertin Engineering and Johnson Soils Company to
15 give testimony as this witness was involved with
16 the actual excavation, borings, the analysis and
17 the geotechnical analysis and she'll give her
18 testimony as well.

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19 THE CHAIRMAN: Do you have a third
20 witness tonight?

21 MR. ALAMPI: Excuse me?

22 THE CHAIRMAN: Do you have a third
23 witness?

24 MR. ALAMPI: Well, I had the
25 planning consultant but knowing, Chairman, this

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1 meeting is going to he end at 9:00 --

2 THE CHAIRMAN: Yes.

3 MR. ALAMPI: -- so assuming that the
4 cross-examination and public comment, I don't
5 think we would want to start that witness and
6 then have him come back. He's going to be
7 subjected cross-examination.

8 THE CHAIRMAN: Okay.

9 MR. ALAMPI: So with that in mind
10 I'll recall Mr. Calisto Bertin.

11 CALISTO BERTIN, having been duly sworn by the
12 Notary Public, was examined and testified as
13 follows:

14 MR. ALAMPI: Chairman, I just wanted
15 to make sure, Calisto does not seem to have it up
16 there, the plan that was the Grading and Drainage
17 utility and Soil Erosion Plan but you have that
18 in your package, don't you?

19 MR. MUHLSTOCK: Yes.

20 DIRECT EXAMINATION

21 BY MR. ALAMPI:

22 Q. Calisto, you saw that we have marked
23 into the case record these various reports
24 generated by your office. These were reports
25 that originally were prepared some years ago,

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1 several of these were upgraded and revised over
2 time and then most recently these were all
3 revised during the course of the summer and even
4 subsequent to the July 2010 public hearing,
5 correct?

6 A. Yes.

7 Q. why don't you take us through the
8 various reports. we can all read English, we can
9 all understand what's in the reports, I just need
10 you to highlight these reports and to corroborate
11 the conclusions and such. If anyone wants to
12 exhaustively question you on it, fine, I don't
13 think I need to do much more than let you bring
14 us through the reports. They stand for
15 themselves.

16 A. well, the first report we have
17 marked here as A-8, it's the Storm Water Drainage
18 Analysis, and I'm not going to go through this,
19 but basically the rainfall study and the runoff
20 of the site. The report prior to this was for a
21 slightly different configuration of the building,
22 so we revised this report in August to reflect
23 the current building. And some of these changes

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24 were in response to comments from Boswell
25 Engineering. And really we increase runoff, we

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1 have to do something about water quality, so the
2 water from the parking lot has to be treated and
3 actually suspended solids removed before it dumps
4 into the drainage system in River Road.

5 MR. MUHLSTOCK: Can you just for the
6 public, can you summarize so the people
7 understand what that report stands for? I
8 understand you just did to a -- without going
9 into technical detail.

10 MR. LAMB: Mr. Chairman, before he
11 does that, I have no objection to him doing that,
12 but I would like to withhold my questions because
13 I know Boswell is going to review that and make
14 comments and I may, you know, depending upon what
15 their comments are, I don't want to waste time
16 cross-examining.

17 THE CHAIRMAN: So you'd like to
18 reserve cross?

19 MR. LAMB: Right. I don't think
20 it's necessary.

21 THE CHAIRMAN: That's fine.

22 A. Quickly, the addition of the
23 building and parking lot increases the impervious
24 area. So under current conditions we have runoff
25 rates that range from five cubic feet per second

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1 to nine and a half cubic feet per second. That's
2 under current conditions. With the proposed
3 building we increase that to six cubic feet per
4 second to 11 cubic feet per second. That's for
5 rainfall intensity. And the second one I'm
6 giving you is 100 year storm. So without doing
7 any treatment we're going to increase the runoff
8 of the site. So we've installed an underground
9 detention system to capture the water and to hold
10 the water so we don't increase the rate of
11 runoff. And that's all explained here on how
12 we've actually done that and to get to a final
13 runoff rate.

14 There's another aspect of this I
15 went through at the last meeting is that we have
16 a green roof. And the green roof actually holds
17 a portion of the storm, so light storms, a
18 one-year storm or two-year storm, that's a term,
19 the frequency, so that's a storm that would
20 happen on a regular basis as opposed to 100 year
21 storm which is technically supposed to have a
22 probability of occurring once in 100 years. So,
23 I mentioned last time that a little over half the
24 roof has a green roof, so that green roof will
25 absorb the water. That's taken into account in

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1 the calculations plus roof runoff goes into what
2 we're calling a water harvesting tank and from
3 there we will have pumps to use as a sprinkler
4 system for the lawns around the property.

5 Q. Now, Calisto, we marked into the
6 case record A-9 which is a plan. Can you tell us
7 what that is so this way you can mount it?

8 A. Oh, sure. A-9 is just one drawing
9 in the set, it's drawing C-2.3 which is our
10 grading erosion control and utility plan. And
11 the reason why we made an amendment to that is
12 one, to reflect the changes we made in the
13 drainage report because some of the detention
14 features became smaller, but also Mr. McGrath
15 pointed out some inconsistencies in the original
16 submission. So we couldn't --

17 Q. Let me ask the questions.

18 A. Yes.

19 Q. The drainage plan seems to have two
20 sheets. You said one sheet.

21 A. Okay, I'm sorry.

22 Q. Is it a two-sheet exhibit?

23 A. The second one is the details, yes.

24 Q. And so this --

25 THE CHAIRMAN: And it's number is

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THE WITNESS: Yes.

2
3 Q. This two-sheet exhibit was
4 previously part of your original package of
5 engineering site plans?

6 A. Yes.

7 Q. And these are revisions to those
8 sheets, correct?

9 A. Correct.

10 Q. Could you -- you want to place this
11 up on the board, clip it up there?

12 MR. ALAMPI: I know what you're all
13 thinking, why didn't I do this before the meeting
14 started, right? Because I didn't think of it.

15 THE CHAIRMAN: Fair enough.

16 THE WITNESS: I thought of asking
17 Mr. Lamb what questions he was going to ask me so
18 I would be prepared.

19 MR. ALAMPI: I'm just thinking
20 myself why didn't I do it.

21 Q. This A-9 exhibit then is updated --
22 an updated revision of the previous submission,
23 correct?

24 A. Yes.

25 Q. And does this plan help you to

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1 illustrate many of the things that you are
2 discussing in a narrative form in the A-8 Storm
3 Water Drainage Analysis report?

4 A. Yes.

5 Q. And notwithstanding the various
6 exhibits, attachments, calculations and such,
7 without boring us to death, could you just show
8 us with your hand or with -- you have the laser
9 pointer with you tonight, on this A-9 when you're
10 talking about, for example, you said harvesting
11 tank and all that, just, you know, show us where
12 it is and what it does.

13 A. Well, I'll start there. The water
14 harvesting tank we're showing right in the middle
15 of the site. That will be like a fiberglass
16 storage tank.

17 Q. Where is this, underground?

18 A. Underground.

19 Q. Its purpose is to do what?

20 A. Is to store water, rainwater and
21 there will be a pump in there and we'll use that
22 pump to irrigate the lawns and the landscaping.

23 Q. So we reuse the rainwater?

24 A. Correct.

25 Q. Explain to us, for example, what

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1 other storm drain systems you are creating to
2 capture the water, the rainwater and storm water
3 runoff?

4 A. Right. All the roof water will be
5 collected in roof drains and they will be piped
6 to this storage tank. Exactly how they're piped

7 will be determined when the mechanical engineer
8 can figure out how he's going to do that for the
9 building, but they will all come down into the
10 parking lot and the courtyard and go into that
11 tank. And that tank will be underground.

12 Q. And you've designed the size of the
13 tank and the capacity based upon your knowledge
14 and expertise to accommodate the amount of
15 rainwater you determined that would run from the
16 roofs?

17 A. We designed the detention system
18 based on that runoff. We haven't done the full
19 design on the rainwater tank because that depends
20 on how much water we're going to use for
21 irrigation. So that's a calculation we'll do
22 later on. We'll determine the irrigation water,
23 the monthly rainwater --

24 Q. Whether you capture it and release
25 it or whether you capture it, harvest it and

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1 reuse it, the total of the water runoff will be
2 accommodated for?

3 A. Yes.

4 Q. Now, all of that is contained in
5 these reports and these calculations and these
6 outflow determinations and such?

7 A. Yes.

8 Q. And of course the borough's
9 engineer, Mr. McGrath, is reviewing this with his
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10 staff of people as well, correct?

11 A. Yes.

12 Q. That's normally done?

13 A. Yes.

14 Q. You are expecting these critiques
15 and reviews to be concluded?

16 A. Yes.

17 Q. And is there anything that you need
18 to explain to the board and to the public beyond
19 the report and the plans with regard to storm
20 water release or holding and then release? Is
21 there anything?

22 A. No, I don't think I have to explain.

23 Q. Are we achieving the required
24 criteria with regards to how we released the
25 water, the rate at which we released the water

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1 and things of that nature?

2 A. Yes.

3 Q. Are we exceeding these criterias?

4 A. In some cases, yes.

5 Q. Are we deviating from or failing to
6 meet any of these criterias?

7 A. No.

8 Q. Can you move on, then, to other
9 features of your plan?

10 A. Well, in the center of the courtyard
11 is the underground detention system. That's

12 slightly smaller than what was on the prior plan.

13 Q. This will be excavated in the ground
14 and it will be paved over by the parking lot,
15 correct?

16 A. Correct.

17 Q. And there will be a drain on top of
18 it or leading to it, correct?

19 A. Yes, the roof leaders will run to
20 it, also the inlets on the property will run to
21 it.

22 Q. That's the word I'm looking for,
23 inlets.

24 A. Inlets.

25 Q. And that will also handle water

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1 runoff not only from the roof but also the
2 surface of the parking area and other impervious
3 surfaces, correct?

4 A. Yes.

5 Q. Anything else that you need to show
6 us with your drainage and other plans relating to
7 these elements, A-8 and A-9?

8 A. No.

9 Q. I don't mean to oversimplify it but
10 the hydrology of it has been analyzed by yourself
11 and will be reanalyzed by the Boswell firm,
12 correct?

13 A. Yes.

14 Q. Is there anything else on these
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15 notes that you feel you want to establish or
16 present to the board?

17 A. No, only that we made some
18 corrections. The sewer flow calculation was not
19 right because it had the wrong number of units,
20 so we corrected that and there were a couple
21 other minor notes.

22 Q. And we decided to adjust the
23 building, the technical staff in your office may
24 not have adjusted the notes according?

25 A. That's correct.

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1 Q. All of that has been rectified?

2 A. Yes.

3 Q. Is there anything else to present on
4 the A-9 plan, any features that need to be
5 presented that you feel the board should learn
6 from your testimony over and above what's in the
7 reports in the plans?

8 A. No, I don't believe so.

9 Q. You also prepared a traffic -- when
10 I say you, you are Calisto Bertin, but I see that
11 there's a report on A-10, Traffic Impact Study
12 from Bertin Engineering and Calisto Bertin and
13 Bahman Izadmehr --

14 A. Yes.

15 Q. -- has prepared the report with you?

16 A. Yes.

17 Q. Now Mr. Izadmehr was here with us
18 last time and enjoyed our company for dinner.
19 He's not here tonight?

20 A. No, we weren't sure we were going to
21 get to this.

22 Q. But for purposes of the case record,
23 did you work on, collaborate with Bahman Izadmehr
24 and others and execute and sign this report?

25 A. Yes, Bahman Izadmehr has a Ph.D. in

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1 transportation engineering, he prepared the
2 report, I reviewed the report and of course
3 co-signed it with him.

4 Q. And we had qualified you in the past
5 as a civil engineer and also as an engineer who's
6 qualified to do traffic impact study, traffic
7 analysis, et cetera, I guess what we call traffic
8 engineering.

9 MR. ALAMPI: Chairman, we had
10 earlier qualified Bertin Engineering generally
11 and this witness and also Mr. Izadmehr qualified.
12 But I'm going to utilize the testimony of
13 Mr. Bertin who collaborated on this to
14 authenticate, document and support and introduce
15 into evidence the Traffic Impact Study.

16 I see Mr. Lamb rising to his feet,
17 maybe he has a comment or an objection.

18 MR. LAMB: I just have a couple
19 questions on the qualifications on the traffic,

20 although I know Mr. Bertin has testified before
21 on it, that I'd just like to ask if it's the
22 appropriate time.

23 THE CHAIRMAN: Sure.

24 VOIR DIRE EXAMINATION

25 BY MR. LAMB:

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1 Q. Mr. Bertin, you're currently about
2 to testify as a traffic engineer, a traffic
3 consultant for the applicant; is that correct?

4 A. Yes, I'm going to give a brief
5 summary of the report.

6 Q. And your office also was the site
7 engineer for the applicant as well?

8 A. Yes.

9 Q. And so essentially you've designed
10 this site with the intent as the project engineer
11 to get the board to approve it as it is designed?

12 MR. ALAMPI: Well, I'll object to
13 the characterization of the question, that he
14 designed it to get you to approve it.

15 MR. MUHLSTOCK: Okay. Okay. Don't
16 argue. It's really not cross, it's really voir
17 dire.

18 MR. LAMB: It's voir dire, it's not
19 cross.

20 MR. MUHLSTOCK: So let's keep it
21 voir dire.

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22 A. Yes, I designed the site that I want
23 to get approved, yes, that is approvable.
24 Q. And now that you've designed that
25 site as a site engineer, you are also testifying

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1 to support the traffic impacts of the site, are
2 you not?

3 A. Well, the traffic and the site were
4 developed concurrently. We looked at the traffic
5 and circulation and all those aspects at the same
6 time we designed the site. So we had two heads
7 instead of just one.

8 MR. LAMB: Nothing further.

9 THE CHAIRMAN: All right thank you.

10 VOIR DIRE EXAMINATION

11 BY MR. ALAMPI:

12 Q. Have you testified in the past as a
13 traffic engineer --

14 MR. MUHLSTOCK: Go ahead.

15 Q. -- with regard to plans that you
16 also collaborated on as the civil and site
17 engineer?

18 A. Yes.

19 Q. Is that an uncommon phenomena?

20 A. No, I've done that. I usually try,
21 one of us will do civil and one will do traffic
22 but in this case --

23 Q. In your professional experience with
24 other colleagues throughout the state is that an
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25 uncommon phenomena for an engineering firm to

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1 provide a multilevel of services?

2 A. Absolutely not.

3 Q. Have you ever performed such a task
4 for Mr. Lamb in his applications?

5 A. Maybe for other attorneys in his
6 firm, maybe not Mr. Lamb.

7 Q. That's good enough.

8 THE CHAIRMAN: We'll accept him.

9 MR. ALAMPI: Thank you.

10 DIRECT EXAMINATION (CONTINUED)

11 BY MR. ALAMPI:

12 Q. With that, Calisto, you had prepared
13 a traffic impact study. Are you prepared to go
14 into that or did you think we were just dealing
15 with the engineering tonight? It's your choice.

16 A. Well, I thought we would deal with
17 engineering and we had Mr. Izadmehr but if you
18 have a general question I'll respond to it.

19 MR. ALAMPI: I'll have Izadmehr on
20 call for next evening. I sense that we might be
21 struggling with this testimony so we'll move on.
22 But it's in the case record and we'll decide
23 whether we can get Mr. Izadmehr here for the next
24 meeting.

25 THE CHAIRMAN: Okay.

1 Q. With that, Calisto, we're going to
2 move on to A-11 and A-12. Can you tell me what
3 these two exhibits or reports are?

4 A. They're the two geotechnical
5 reports.

6 Q. They're prepared by Johnson Soils
7 Company?

8 A. Correct.

9 Q. Can you tell me who Johnson Soils
10 Company is?

11 A. It's a geotechnical company, and,
12 yes, I'm a partner in Johnson Soils. I of course
13 because I'm involved in this project was involved
14 in the reports but Lisa Mahle-Greco will be
15 testifying about the reports in more detail. But
16 she authored the reports and I reviewed them with
17 her.

18 Q. And with regard to these reports,
19 can you tell us the extent of your involvement
20 and/or collaboration in the preparation of these
21 two reports?

22 A. We discussed some of it at the prior
23 meeting where I was on hand when we did test pits
24 and there were soil borings and test pits, and I
25 think at the last meeting I went into some detail

1 about the profile of the rock and how the
2 elevation of the rock rises as we move away from
3 the Hudson River towards the Palisades. And
4 there are questions came up -- well, at the first
5 report, first --

6 Q. Let me ask you this, we'll keep it
7 real simple.

8 A. Go ahead.

9 Q. You had done a preliminary or
10 Johnson Soils had done a preliminary geotechnical
11 as far back as May 14, 2007; is that correct?

12 A. Yes.

13 Q. On this property?

14 A. Yes.

15 Q. And that was for a different
16 application but on this property?

17 A. Yes.

18 Q. Have the soil conditions and the
19 subsurface conditions and such changed because we
20 have changed the type of building on paper in the
21 application?

22 A. No, the soil conditions --

23 Q. So that was gathered back then,
24 still pertinent and material and relevant to the
25 data that was further gathered in these later

Celeste A. Galbo, CCR, RMR

□

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1 revised reports?

2 A. It's still valid.

3 Q. And so A-11 is a preliminary
4 geotechnical report inially dated May 14, 2007
5 revised August 1, 2007 and final revision is June
6 10, 2010; is that correct?

7 A. Yes.

8 Q. And could you tell us what these
9 reports reveal to us?

10 A. I testified about that, the
11 preliminary report at the last meeting. The
12 purpose was to find out where the rock was and if
13 the construction of this building would involve
14 excavation or a lot of rock removal. So the
15 purpose was not only to see what the soil
16 conditions were in the front of the building and
17 whether or not it would be piles.

18 Q. Now, I ask you which of your many
19 exhibits would assist you visually to discuss the
20 geotechnical narrative reports and what exhibit
21 did you put up on the board?

22 A. I'm looking at A-4.

23 Q. And just on the bottom which sheet
24 is that so the board can follow us?

25 A. Well, it's called -- it's the

Celeste A. Galbo, CCR, RMR

□

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1 interior parking, it's a rendering -- it's not a
2 rendering, it just shows the same information as
3 the site plan --

4 Q. It's not a trick question. This is
5 a report. Is it dated, Calisto?

6 A. Yes, it's called Interior Parking.
7 It's dated August 25, 2009.

8 Q. And was that initially part of the
9 multi-page engineering site plan exhibit that was
10 previously filed with the board?

11 A. Yes. I'm sorry, there's a revision
12 of July 13, 2010 and was not --

13 Q. Slowly, please, I can't keep up. So
14 this report was revised just sometime prior to
15 the last public hearing we had here in North
16 Bergen, correct?

17 A. Yes, this drawing was prepared for
18 the public hearing.

19 Q. Did you present this plan at that
20 hearing?

21 A. Yes.

22 Q. And that's why it's marked as A-4?

23 A. Yes.

24 Q. And, again, that was the interior
25 parking plan?

Celeste A. Galbo, CCR, RMR

□

30

1 A. Yes, it shows the surface parking
2 and the parking within the garage.

3 Q. Now, does this exhibit assist you in
4 illustrating and/or demonstrating the essence,
5 the -- and the nature of the report and the
6 conclusions in this report that we marked both
7 the A-11 and then A-12?

9-29-10 Appleview (2)

8 A. Yes, it does in that I can indicate
9 where some information came from.

10 Q. Okay. Before you do that, we also
11 marked as A-12 a Preliminary Geotechnical
12 Engineering Report-Supplement. What was that all
13 about?

14 A. As a result of the last meeting,
15 additionally investigation was done at the site
16 and the information contained in that supplement
17 was to respond to the questions raised at the
18 last meeting.

19 Q. Now, this A-12 exhibit is dated
20 September 16, 2010 and it refers to a September
21 7, 2010 three additional test pits were
22 excavated?

23 A. Correct.

24 Q. Were you on the site on September 7,
25 2010?

Celeste A. Galbo, CCR, RMR

□

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1 A. Yes, I was there.

2 Q. And were you there while there were
3 excavation pits being excavated?

4 A. Yes, I was there for the first two
5 pits.

6 Q. And you were there in corroboration
7 with Lisa from Johnson Soils?

8 A. Yes.

9 Q. And what's Lisa's last name? It's a
10 beautiful Italian name.

9-29-10 Appreview (2)

11 A. M-A-H-L-E -Greco, G-R-E-C-O.

12 Q. Mahle-Greco. When we look at the
13 report, is it necessary to integrate both A-11
14 and A-12 together or can you discuss these
15 separating in sequence?

16 A. It's not necessary to integrate
17 them. At some point in the future they will
18 become part of one report.

19 Q. Okay. So for now why don't we go
20 through A-11 which was last revised June 10, 2010
21 and could you -- you can go through the report
22 itself for us. Tell us what was being done, what
23 findings were happening and then we're going to
24 go into more extensive discussion with Lisa.

25 A. Okay. That report, there were

Celeste A. Galbo, CCR, RMR

□

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1 several soil borings performed and then test
2 pits. Soil borings are done with a drill rig,
3 test pits are done with an excavator.

4 Q. What's an excavator like a backhoe
5 or bobcat or something?

6 A. Yes, machine backhoe type machine,
7 the bigger one on tracks. So I just said that in
8 the front yard the rock is many feet below grade,
9 30 feet below grade.

10 Q. Show us with your hands or your
11 laser pointer.

12 A. Sure. I'm talking about next to

9-29-10 Appleview (2)
13 River Road. As we move back towards the rear
14 wall of the proposed building, the rock elevation
15 is much higher, it's six feet below grade.
16 Beyond that point we had to use an excavator
17 because we couldn't get the drill rig up on the
18 slope.

19 And so we dug test pits along the
20 rear wall of the building and found that rock
21 ranged in different elevations but generally all
22 in the rear wall of the building rock was below
23 the finish flow.

24 Q. When you described these test pits,
25 did you take photographs of these test pits?

Celeste A. Galbo, CCR, RMR

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1 A. There are some photographs in the
2 supplement report. I don't think there are
3 photographs for the first report.

4 Q. How big are these test pits?

5 A. Well --

6 Q. Roughly. I mean, is it two feet by
7 two feet?

8 A. No, no, no. They're probably 10
9 feet long by four or five feet wide and they go
10 down until we hit rock. So some of them were
11 down 10, 15 feet.

12 Q. Okay. And could you show us with
13 your laser pointer where these test pits were
14 excavated on the site, approximating it? I
15 understand you don't have the ability --

9-29-10 Appleview (2)

16 A. Right. Well, they are indicated on
17 another drawing but not --

18 Q. Just show us on this right now.

19 A. I'll show you on this. Let me refer
20 to the right drawings.

21 There was boring B1 was located in
22 the north, north being to the right and east
23 being down the page, so the northeast corner of
24 the site under probably where it says maintenance
25 room. And the grade there is elevation 10 and

Celeste A. Galbo, CCR, RMR

□

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1 the rock was found at minus 36. So we go down 10
2 to zero then minus 36. So 46 feet below ground
3 is where rock is at that point where I'm saying
4 like the maintenance room is.

5 We did another boring back here
6 where I said bicycle storage, a little bit in
7 front of that wall, and rock was at elevation
8 six. So the rock rises as we head away from
9 River Road to the west.

10 Q. What's the elevation of River Road?

11 A. The elevation of River Road is nine
12 and a half, 10.

13 Q. So even that elevation is about
14 three feet below the profile of the center line
15 of River Road?

16 A. Yes.

17 Q. Okay. What else?

18 A. Then there were a series of tests
19 pits along the rear wall. I'm going to point
20 to --

21 Q. The first two items you've
22 discussed, were they test pits?

23 A. They were borings, soil borings.

24 Q. Borings.

25 A. So that was a drill going down into

Celeste A. Galbo, CCR, RMR

□

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1 the ground and we took soil samples and then --

2 Q. It's a truck with a big screw drill
3 that goes into the ground?

4 A. Yes, for drilling for a well,
5 similar apparatus.

6 Q. You weren't drilling for oil, were
7 you?

8 A. No, we didn't hit any.

9 Q. So you had the drill borings and you
10 have test pits. So the first two items you've
11 discussed were the drill borings?

12 A. Correct.

13 Q. Then along the proposed back wall of
14 the building you were doing excavation pits?

15 A. Yes.

16 Q. Okay. You want to just show us
17 where they are?

18 A. So in the area where I'm pointing
19 which is from the bicycle storage, say, four or
20 five parking spaces moving south from the bicycle

9-29-10 Appreview (2)

21 storage room there was a test pit and rock was
22 found at elevation 13, a little bit behind the
23 building wall, at elevation 13, and the finish
24 floor of the building at that point is 12 and a
25 half.

Celeste A. Galbo, CCR, RMR

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1 Q. When you say finish floor, that
2 would be the finish level of the first floor?
3 A. Of the garage.
4 Q. Of the garage?
5 A. Right.
6 Q. The surface garage?
7 A. Yes, the surface garage. So at that
8 point that I just described we would encounter
9 some rock when installing the footings for the
10 building.
11 Q. About one foot higher than the
12 finish floor of the garage?
13 A. Yes.
14 Q. And there was a third excavation
15 pit?
16 A. Moving down another six parking
17 spaces and about 10 feet behind the building,
18 rock was found at elevation 18.
19 Q. That would be approximately six feet
20 above the finish floor of the garage?
21 A. Right. But then we moved further
22 south along the building, I say down another six

9-29-10 Appleview (2)
23 more parking spaces, so we're about a quarter of
24 the way from the south wall and rock was found at
25 elevation 10.

Celeste A. Galbo, CCR, RMR

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1 Q. So it's slightly higher and then
2 dipped again?

3 A. And that's the nature of the
4 Palisades, yes.

5 Q. And how many test pits or excavation
6 pits were there then across the back, the
7 proposed back wall?

8 A. For the first report that you're
9 mentioning there were seven test pits dug in the
10 area behind the building.

11 Q. And then when you returned in
12 September there were additional test pits?

13 A. Yes.

14 Q. We'll get to that in a minute.

15 While we're talking about the test
16 pits, if we go to A-12 which reflects being on
17 the site on September 7th, this past year, 2010,
18 there were additional excavation pits?

19 A. Yes.

20 Q. Would you just show us with your
21 pointer again where they would have occurred?

22 A. Yes, these tests pits were done
23 further away from the building. What was done,
24 let's see, along the rear wall of the building
25 there's a utility room at the south end so four

Celeste A. Galbo, CCR, RMR

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- 1 parking spaces up from that utility room and
2 moving back 40 feet -- 35 feet behind the
3 building is where one of the test pits was dug.
4 Q. Okay. So about 30 feet or 32 feet
5 in and back about 40 feet?
6 A. 35 feet, yes.
7 Q. 35 feet.
8 A. Yes, right.
9 Q. And then you did an excavation pit?
10 A. Yes.
11 Q. And what did you find there?
12 A. Well, there was rock found at
13 elevation 35 at that point. So that's above the
14 garage floor, it's actually above the first
15 floor.
16 Q. So it's about 23 feet above the
17 floor of the garage and about 12 feet higher than
18 the floor of the first level?
19 A. Yes.
20 Q. Next, what other excavation did you
21 do?
22 A. There was an excavation, I'm going
23 to move --
24 Q. You're moving northerly?
25 A. Moving northerly, I did the same

Celeste A. Galbo, CCR, RMR

1 distance back from the building.

2 Q. Approximately --

3 A. About 80 feet.

4 Q. Approximately the middle of the rear
5 wall?

6 A. Yes.

7 Q. About 35 feet to the west?

8 A. Yes.

9 Q. And what did you find there?

10 A. And I don't have the report in front
11 of me but I believe it was 25. I'm looking at
12 Lisa for -- I'm sorry, 17. So in the middle of
13 the building we found rock at elevation 17, about
14 40 feet back behind the building.

15 Q. That would be about five feet higher
16 in elevation than the finish floor of the first
17 floor residential?

18 A. No, of the garage. The garage is at
19 12 and a half. So it's below the residential
20 level but it's above the garage and that's some
21 40 feet or so behind the building.

22 Q. And then you did a final or third
23 excavation pit?

24 A. Okay.

25 Q. So I repeat the question, was there

Celeste A. Galbo, CCR, RMR

□

2 visit?

3 A. Yes, a third pit was another 40 or
4 50 feet further north but a little bit further
5 back from the building and rock was found at
6 elevation 21. So the rock varied at different
7 distances but the rock was 21 which is below the
8 first floor but it's above the garage but it's
9 below the first floor.

10 Q. Now, besides these excavation pits
11 done initially and then the last three in
12 September and the borings, did you do any other
13 drill borings on the site besides the first two
14 you mentioned?

15 A. There was another boring drilled on
16 the south wing of the building in the area where
17 it says "trash room" on the south wing of the
18 building and rock was found at elevation minus
19 26, so that would be 36, 38 feet below grade.

20 Q. Are there any other tasks performed
21 either earlier in 2007 or in the summer of 2010
22 or finally in September 2010, any other
23 investigative tests that were done on the site
24 for this purpose?

25 A. Well, an analysis of the soil and

Celeste A. Galbo, CCR, RMR

□

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1 whether or not piles would be done. I think Lisa
2 could testify to that. And then we looked at the
3 soil conditions and determined whether there was

4 some fill there and actually we found an asphalt
5 paved road in the back of the site here. On this
6 Exhibit A the --

7 Q. Did you see the road yourself?

8 A. Oh, yeah, I saw it.

9 Q. Could you determine whether it was
10 recently created and asphalted?

11 A. It was not recent. I could not tell
12 how old it was but --

13 Q. Could you tell whether it was more
14 than ten years olds?

15 A. I would say it was, yes.

16 Q. 20 years old?

17 A. That I can't tell. But there was
18 about four to six inches of soil on top of it
19 that had built up over the years. There is a --
20 there was a stone lined path. It's shown on the
21 survey. I think I may have mentioned it at one
22 of the prior hearings and there was a path that
23 was lined with stones and there's a photograph in
24 that report. And sure enough when we were
25 digging with the excavator we found asphalt and

Celeste A. Galbo, CCR, RMR

□

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1 we saw that this is a nice paved road and there's
2 a picture of it. Most of it was covered but
3 there's a paved road back there. I could
4 speculate why it's there but I don't know.

5 Q. But you didn't build it, so you
6 don't know?

9-29-10 Appreview (2)

7 A. No, no.

8 Q. With your laser pointer could you
9 just show us more or less the alignment of this
10 road that goes in the back?

11 (Witness complies.)

12 Q. And how long would you say it is,
13 just that, 60 or 70 feet?

14 A. Yes.

15 Q. Does it go any further into the site
16 that you know of?

17 A. No, it looked like it ended, what
18 the pavement part of it ended where I'm pointing
19 here at the south end of this row of stones that
20 we have identified on the plan, but the pathway
21 continued to the north to the, what's the
22 proposed north corner of the building, the
23 pathway. You could see that's always been there.
24 But we found asphalt where these rocks were.

25 Q. Now, this area is covered with scrub

Celeste A. Galbo, CCR, RMR

□

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1 vegetation and other miscellaneous debris and
2 dirt as well as some mature trees and such --

3 A. Yes.

4 Q. -- in the area?

5 The area that you're discussing
6 where this asphalt road is is how far away from
7 the rear property line? I'm not interested in
8 exact measurements, within five, six feet.

9-29-10 Appleview (2)

9 A. The rear property line?

10 Q. Yes.

11 A. It's 110 feet.

12 Q. And there is a significant

13 difference in the elevation from the rear

14 property line and where that asphalt roads

15 terminates?

16 A. Yes.

17 Q. Would you just give us an

18 approximate sense of it?

19 A. The rear property line is at about

20 elevation 100 and the end of the road is

21 elevation 44. So it's 55 feet grade change from

22 the end of the road to the back property line.

23 Q. Okay. Now, you have some features

24 on that plan that look like little squiggles.

25 What are those three gray things?

Celeste A. Galbo, CCR, RMR

□

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1 A. This?

2 Q. Yes. What are they?

3 A. These --

4 Q. What do they symbolize?

5 A. They're retaining walls. They're

6 stone retaining walls. There's a stone retaining

7 wall behind the building on the south side of the

8 property. There's also a stone retaining wall

9 much further back behind the building towards the

10 northeast corner of the property.

11 MR. ALAMPI: And with regard to
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12 these reports, I don't, Chairman, want to
13 regurgitate six times over, we have a witness
14 with more specific and arcane and technical
15 testimony, so I'm just going to bring this to a
16 summary.

17 Q. With these reports we're going to
18 have another witness behind you, Calisto. Is
19 there anything you want to present in your sworn
20 testimony on either A-11 or A-12 that you're not
21 deferring to your colleague?

22 A. No, I think I've covered what I need
23 to cover.

24 Q. And with regard to the traffic
25 impact study, we'll defer to Bahman's testimony?

Celeste A. Galbo, CCR, RMR

□

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1 A. Yes. And one thing about the
2 traffic, is after we're finished here, we'll be
3 going to the county and the county will be
4 studying the traffic impact study in great depth,
5 that's the charge of the county.

6 Q. You say we'll be going to the
7 county, you mean that an application will be
8 filed with the Hudson County Planning Department
9 for their site plan review?

10 A. Yes.

11 Q. Any other elements of these reports
12 since you're deferring to the other colleagues or
13 even A-8, the storm water drainage that you want

14 to emphasis?

15 A. No.

16 MR. ALAMPI: With that, Chairman,
17 I'm moving A-8 into evidence and the storm
18 drainage plan that I think it was A-12 -- A-9 --
19 A-8 and A-9. I'll move the others when the other
20 witnesses testify.

21 (Applicant's Exhibit 8, Storm Water
22 Drainage Analysis with a revision date of
23 August 31, 2010, was received in evidence.)

24 (Applicant's Exhibit 9, Grading,
25 Drainage, Utility and Soil Erosion Control

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□

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1 plan with a revision date of August 31,
2 2010, was received in evidence.)

3 THE CHAIRMAN: All right. That's
4 fine. Mr. Lamb?

5 MR. LAMB: Does the board want me to
6 continue with the cross-examination we left at
7 the last hearing or try to confine it to the
8 current testimony?

9 THE CHAIRMAN: why don't you
10 continue the entire cross.

11 MR. LAMB: Let me try to -- I'm
12 going to reserve really questions on the storm
13 water management system because I think the
14 board's engineer is going to make comments and I
15 don't want to get into technical --

16 THE CHAIRMAN: Fair enough.

9-29-10 Appview (2)

17 MR. LAMB: I just have a couple
18 questions on that.

19 CROSS-EXAMINATION

20 BY MR. LAMB:

21 Q. Mr. Bertin, the drainage pipes and
22 drainage system that is proposed on the north
23 part of the property in the -- that access area
24 for the transmission company?

25 A. There is a drain pipe proposed along

Celeste A. Galbo, CCR, RMR

□

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1 the north side of the property line where we had
2 indicated that we would be granting a license for
3 access by the utility companies to the back of
4 the property.

5 Q. Okay. And so you're referring to
6 what's C-23?

7 A. Yes.

8 Q. Which is A-9?

9 A. Yes.

10 Q. So within that 20 feet of access
11 area that's going to be excavated for that
12 drainage line; is that correct?

13 A. Yes, there will be an excavation of
14 the drainage line, yes.

15 Q. And how far is the drainage line
16 from the actual existing gas cement
17 approximately?

18 A. 18 feet.

19 Q. And that is from the actual pipe or
20 the actual edge of the easement?

21 A. The pipe. Pipe to pipe.

22 Q. And what is it to the edge of the
23 easement approximately?

24 A. 11, 12 feet.

25 Q. And when you excavate that drainage

Celeste A. Galbo, CCR, RMR

□

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1 area, is it fair to say that it's not -- you just
2 gave me the dimensions from the middle of the
3 drainage pipe; is that correct?

4 A. Yes, correct.

5 Q. But when you actual construct the
6 drainage pipe, is it fair to say that you dig out
7 more than the actual width of the pipe?

8 A. Yes, slightly more. It probably
9 will be about three feet wide, the trench.

10 Q. So if we take three feet and we
11 assume that that's going to be constructed near
12 the gas transmission pipe, if you take three feet
13 away, then what is the distance approximately to
14 the gas, about 15 feet?

15 A. We'd be taking half that. So
16 between the gas pipe and that, we take two feet
17 off the distance I mentioned before, so 18
18 becomes 16 feet.

19 Q. Now, that area, we didn't get into
20 this but since we're on this area, at the last
21 hearing, that area is an accessway, I think we

22 called it an alley for vehicles. Is that going
23 to be like a paver with grass intermittent or is
24 that all grass?

25 A. Just lawn.

Celeste A. Galbo, CCR, RMR

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1 Q. Just lawn. Any other construction
2 in that area other than the drainage pipe?

3 A. No, we were just going to put a
4 stone swale around the back of the building to
5 collect runoff from the hillside and direct it to
6 an inlet --

7 Q. Okay.

8 A. -- that that pipe leads to.

9 Q. Now the swale that's going to be to
10 the rear of the building, is it fair to say that
11 that swale is located in that Guttenberg easement
12 or called suspect Guttenberg easement in that
13 area?

14 A. Yes.

15 Q. So the entire swale is constructed
16 on the easement area? Let's say whether it's
17 suspects or real or whatever, in that easement
18 area that runs north and south, that's where that
19 swale is?

20 A. Correct.

21 Q. Okay. There's been recommendations
22 by the board engineer to get the approval from
23 the Town of Guttenberg with respect to any

9-29-10 Appleview (2)
24 construction or activities either in that area or
25 the other Guttenberg easement. Can you just show

Celeste A. Galbo, CCR, RMR

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1 us where the other Guttenberg easement is?

2 A. There's another Guttenberg easement
3 that comes across the northwest corner of the
4 property.

5 Q. Have you gotten any approval with
6 respect to that easement from --

7 MR. ALAMPI: I'll raise an
8 objection, Chairman. I'll let Mr. Lamb continue,
9 but we don't intend to seek an approval of that
10 type. The genesis of the easement, that's why we
11 call it suspect, there is no genesis, there is no
12 deed of conveyance. It doesn't exist.

13 MR. LAMB: Mr. Alampi respectfully
14 is testifying. And I'm --

15 MR. ALAMPI: Well, informing the
16 board the way we're going to proceed.

17 Q. Mr. Bertin, did the board engineer
18 recommend that you get approval from the Town of
19 Guttenberg in his review reports?

20 A. Yes.

21 Q. You've read every review report,
22 haven't you?

23 A. Yes.

24 Q. And he's mentioned it a couple
25 times?

9-29-10 App'view (2)
Celeste A. Galbo, CCR, RMR

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- 1 A. Yes.
- 2 Q. And that report has been around for
- 3 months?
- 4 A. Couple months, yes.
- 5 Q. Have you ever contacted the Town of
- 6 Guttenberg to do that?
- 7 A. No.
- 8 Q. Let's talk about the Transco
- 9 easement. You have indicated on the plans that
- 10 there's a proposed license. The last time I
- 11 asked you when you said there was no such
- 12 agreement entered into whether it was a license
- 13 or an easement, has that changed?
- 14 A. It hasn't been executed but the
- 15 draft and the discussion has occurred with
- 16 Transco, yes, there's been discussions.
- 17 Q. There's been discussions but there's
- 18 on no easement yet, there is no consent yet,
- 19 there's nothing definite, as in the last meeting
- 20 nothing is happening from July to this meeting?
- 21 A. No, there was no need.
- 22 Q. But you're showing this as an
- 23 easement or license but it hasn't occurred yet?
- 24 A. Correct.
- 25 Q. I'm going to try to reserve my

Celeste A. Galbo, CCR, RMR

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1 questions on the storm water for the technical.
2 Let me move -- and the traffic we're not getting
3 into now.

4 You gave us in general measurements
5 of the depths from the various test pits and
6 excavation points.

7 Having said all that, and I know
8 somebody else is going to testify and try to sum
9 up, does all of that really mean that in the
10 front of the property you have to put piles?

11 A. Yes.

12 Q. And in the back of the property
13 you're going to put an, I guess it's called a
14 spread foundation?

15 A. Yes, we're going to put a footing
16 down to the rock.

17 Q. Okay. And you gave some of the
18 dimensions but in fact isn't some of the stone in
19 the rear of the building actually higher than the
20 floor of the parking area?

21 A. Yes, I mentioned there was one spot
22 along the wall where we found the rock to be a
23 foot above the finished floor, the garage
24 finished floor.

25 Q. So -- is it also fair to say that

Celeste A. Galbo, CCR, RMR

□

1 when you build these buildings you don't actually
2 rest the foundation exactly on the rock, you

9-29-10 Appleview (2)

3 would put something between the rock and the
4 foundation?

5 A. Well, Lisa would answer this, but in
6 this case, no, because the front of the building
7 is going to be a piles, it's going to be a hard
8 surface, so we're going to rest the building on
9 the rock so nothing settles. If in the front we
10 were on soil you want to put a curb shown so the
11 building would settle.

12 Q. Now, when you go to the rear then,
13 is it fair to say that you have to take that rock
14 and scrape away the extra height to get to the
15 desired elevation to build your building?

16 A. Yes, in a couple of spots we
17 anticipate we're going to have to remove some
18 rock to get the footings in.

19 Q. And is blasting going to take place
20 to remove that rock?

21 A. No.

22 Q. How is that rock going to be
23 removed?

24 A. With an excavator just go like a
25 backhoe.

Celeste A. Galbo, CCR, RMR

□

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1 Q. So is it fair to say in those areas
2 you are removing the rock from the Palisades in
3 those areas?

4 A. Yes, I guess you could say that.

5 we're removing rocks that are part of the
6 Palisades ridge, yes.

7 Q. How cubic yards do you estimate
8 you're going to remove in connection with
9 overall, rock and soil combined?

10 A. Well, I think I had -- there's a
11 calculation that shows we were going to remove
12 about 2,000 yards of material. I got a note here
13 someplace. But there's a section along the west
14 wall of the building that I highlighted where
15 soil was to be removed. It's on a drawing and I
16 did calculate it someplace.

17 Q. Approximate, whatever it is.

18 A. If I don't remember and I say the
19 wrong thing, I don't want to be misquoted.
20 That's happened before. And I've gotten in
21 trouble so it's --

22 Q. It could be approximate, Mr. Bertin.

23 A. No, it will wind up in the papers.

24 MR. ALAMPI: These engineers, what
25 are you going to do with them.

Celeste A. Galbo, CCR, RMR

□

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1 A. I'm so --don't worry about it.

2 okay, right now I'm saying 1,000
3 yards of soil and rock will be coming out towards
4 the rear of the building.

5 Q. And how much of that is rock that
6 you're scraping away approximately?

7 A. Well, most of that number will be
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9-29-10 Appleview (2)

8 soil. Along the rock, rock for the footings
9 might be say a couple hundred yards, 200 yards of
10 rock would be excavated because that would just
11 be a strip along the footing. And if you recall,
12 further south along the wall we found rock at
13 elevation 10. So in that spot we're just going
14 to clean the rock. It's just about two-thirds of
15 the way up from the south along that west wall
16 where we -- rock came above the finish floor.

17 Q. When you construct the building and
18 excavate the foundation, is it also fair to say
19 that you go beyond the actual footprint of the
20 building, the floor plan?

21 A. Yes, a couple feet we're going to go
22 beyond it.

23 Q. And what is the closest distance
24 between the northwesterly corner and the
25 Transcontinental gas line approximately?

Celeste A. Galbo, CCR, RMR

□

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1 A. I think I answered this before.
2 well, if we go sideways, sideways meaning heading
3 due north, it's 24 feet.

4 Q. And that's from the tip of the
5 building?

6 A. From the corner of the building
7 heading north to the closest point on the gas
8 line.

9 Q. And, again, if the -- does it come

10 to be a little less than 20 feet if you again go
11 beyond the footprint to make sure that there's
12 excavation?

13 A. Yes.

14 Q. Now, you testified that you really
15 weren't familiar with the pressures that can be
16 placed on a gas transmission line, the weight
17 that can be placed, that you weren't really
18 testifying as a safety expert or addressing the
19 safety of the design; is that correct?

20 A. Absolutely not, correct.

21 Q. So you can't tell us with respect to
22 construction so close to the transmission line
23 whether that's safe or not?

24 A. During our discussions with Transco
25 --

Celeste A. Galbo, CCR, RMR

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1 Q. I want to know --

2 A. -- they did not have a concern about
3 safety, so --

4 Q. I don't care what they said because
5 they're not here. Maybe they will be here but
6 they're not here now. I want to know what you
7 say.

8 MR. MUHLSTOCK: But, Mr. Lamb, you
9 asked the question so it's fair --

10 MR. LAMB: He can't answer the
11 question and say somebody told me.

12 MR. MUHLSTOCK: You asked the
Page 52

13 question.

14 Q. Let me rephrase the question.

15 without talking to anybody --

16 MR. ALAMPI: He gave his answer.

17 MR. MUHLSTOCK: He gave his answer

18 Mr. Alampi.

19 Q. Without talking to anybody can you
20 advise us whether this is safe or not?

21 A. I would say it's safe because we're
22 over 20 feet away where the excavation is going
23 and we've done -- we're not going to be
24 undermining the pipe. We'll be far enough away,
25 there will be no equipment running over the top

Celeste A. Galbo, CCR, RMR

□

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1 of the pipe so yes, I would say it's safe.

2 Q. So you're giving your opinion as an
3 engineer. Now, the last hearing you testified
4 that you couldn't provide any opinion on safety.
5 So now are you changing your testimony from the
6 last hearing?

7 A. I'm answering the question based on
8 my knowledge not as a safety engineer but my
9 experience as a civil engineer.

10 Q. Is the fact that this is a high
11 transmission line, does that make it more safe or
12 less safe with respect to the setbacks?

13 A. I don't think that changes, I don't
14 think that changes. Caution has to be used

15 regardless of what type of pipe it is.

16 Q. Have you ever testified with respect
17 to safety issues on a gas transmission line?

18 A. No.

19 Q. Okay. And that's what you testified
20 to in July, was it not, when you were here?

21 A. Yes.

22 Q. You testified on sewers and you
23 testified I think you it was on electric lines, I
24 don't want to misstate you, but you've never
25 testified on gas?

Celeste A. Galbo, CCR, RMR

□

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1 A. Correct, and I don't want to pretend
2 that I am an expert on gas transmission lines,
3 I'm not.

4 Q. Now, a lot of tests were taken
5 farther back on the westerly side of the
6 property. There is no construction proposed on
7 that portion of the property, is there?

8 A. No.

9 Q. Okay. So what was the purpose of
10 going back beyond the construction area and
11 testing in that area?

12 A. Because someone asked us to,
13 otherwise I would not have done. But the purpose
14 was to address a question you raised and a member
15 of the board said what's the elevation of the
16 rock 40 feet behind the building. So we went out
17 and did test pits 40 feet or so behind the

18 building.

19 Q. I don't think that was my question
20 but --

21 A. Well, I think you stirred the pot.

22 Q. Now, is it fair to say that back in
23 2007 under these original geological reports,
24 either your office or Johnson drove back in that
25 area or got a drill rig back in that area to

Celeste A. Galbo, CCR, RMR

□

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1 drill test pits like three or four years ago?

2 A. An excavator, yes, a track mounted
3 shovel excavator went up the hill in the back.

4 Q. Was that under your direction or
5 Johnson Soils direction?

6 A. Johnson Soils and the applicant's
7 and I was on hand to observe.

8 Q. At that time did they make any road
9 to get back there? Did they construct or pave or
10 flatten or do anything?

11 A. No, they followed a natural path --
12 they followed the grades of the soil. They did
13 not cut in a road, maybe a couple trees got
14 knocked down in doing it but they didn't grade
15 the area.

16 Q. Now, you pointed out just a while
17 ago it's three gray areas which I think you said
18 are retaining walls. Did you review the
19 stability or the condition of those retaining

20 walls?

21 A. I just looked at them. The one in
22 the middle is just a row of large stones, but the
23 other walls are retaining walls and they didn't
24 look like they were about to fall. They were
25 well placed walls that you see around the area.

Celeste A. Galbo, CCR, RMR

□

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1 And there's another one that straddles this
2 property with the Galaxy.

3 Q. And so you're basing your opinion,
4 you didn't actually inspect them but you saw them
5 from a distance, is that what --

6 A. Correct.

7 Q. And so from a distance you believe
8 that they're okay, they're not --

9 A. Yes, they looked okay.

10 Q. Now, we left off at the
11 cross-examination the last time we were talking
12 about the bottom of the cliff, the bottom of the
13 cliff area and let's pinpoint to the approximate
14 location of the swale.

15 A. All right.

16 Q. Is the bottom of the cliff, that
17 area, that dirt, is that part of the cliff in
18 your opinion?

19 A. The -- my opinion was that cliff is
20 the area that rises above the dirt, that the
21 exposed rock face would be the cliff and that I
22 guess if you were to dig down, you could expose

9-29-10 Appview (2)

23 more of the continuation of the cliff below
24 grade. That's as close an answer as I can get.
25 It's the same rock formation but it's

Celeste A. Galbo, CCR, RMR

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1 underground.

2 Q. But you're saying that in your
3 opinion the meaning of cliff is only rock, cliff
4 equals rock?

5 A. Absolutely.

6 Q. So if I stand back in the New York
7 skyline and look over this area behind the
8 proposed building, that the only portion of the
9 cliff is the exposed rock; is that what you're
10 saying?

11 A. Yes, I think in general a person
12 would agree to that.

13 Q. And if we take the -- what is the
14 approximate width of the property?

15 A. 275 feet.

16 Q. So out of the 275 feet there's only
17 a small piece of it that's actually exposed rock?

18 A. Yes, I'm going to -- looking again
19 at Exhibit A-9, there's a hatched area up towards
20 the top of the page which is the west property
21 line and it's identified as exposed cliff face.

22 Q. Okay. Can you take this Magic
23 Marker and draw what you say is the exposed cliff
24 face?

25

9-29-10 Appleview (2)
MR. ALAMPI: Hold on one second,

Celeste A. Galbo, CCR, RMR

□

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1 please. We keep having my exhibits get defaced
2 and marked up. If Mr. Lamb wants to take his
3 copy and have the witness mark it up, but that's
4 my exhibit for my case. I'm not marking up my --

5 MR. LAMB: Mr. Alampi, I would not
6 want to mess up --

7 THE CHAIRMAN: Fair enough.

8 MR. ALAMPI: We sent you a copy.

9 MR. LAMB: So I'm happy to -- C-2.3
10 so we're going to make this an O Exhibit or on a
11 G exhibit?

12 MR. ALAMPI: What would be G? O I
13 understand.

14 MR. LAMB: G for Galaxy.

15 MR. ALAMPI: I think O is
16 appropriate.

17 MR. LAMB: We'll mark this as O-1,
18 Mr. Chairman. And you can mark it up as much as
19 you want, Mr. Bertin.

20 (Objector's Exhibit 1, Drawing C-2.3,
21 was received in evidence.)

22 A. All right. O-1 which is drawing
23 C-2.3 I am highlighting, we've identified as the
24 exposed cliff face on this property.

25 Q. Can you draw a circle around the

1 extent of it, not just a line but what you think
2 is the extent of it.

3 A. I'm not sure I know what you mean.

4 Q. The entire rock portion, you drew a
5 line with zigzags, is there a circle? Does it go
6 up 10 feet? Does it go over 30 feet?

7 A. Well, beyond what we've shown is
8 dirt. So for whatever reason this rock has
9 extended above the dirt but there's dirt on
10 either side of this.

11 Q. So if there's a rock -- if you just
12 draw the zigzag, if that zigzag is a rock and
13 there's dirt a foot up, then you don't count that
14 as part of the cliff?

15 A. Well, it's not exposed. Actually
16 the rock in this case extends higher than the
17 soil on either side of it. So this must be just
18 a portion that remained --

19 Q. Well, how far does it go up
20 approximately?

21 A. I'm going to say it's about 10 feet.
22 It's about 10 feet above the soil.

23 Q. Can you draw the upper limits of
24 what you say the exposed rock is?

25 A. Oh, okay, like the rear of the rock?

Celeste A. Galbo, CCR, RMR

1 Q. Yes.

2 (Witness complies.)

3 A. So this area in yellow.

4 Q. So it's your testimony that with
5 respect to this site, the yellow piece is the
6 Palisades cliff?

7 A. Yes.

8 Q. Okay. And is there anyplace in the
9 zoning ordinance that says or refers to a
10 reference that the Palisades cliff is a rock or
11 stone or under the dirt or anything like that?
12 Is there one place in the zoning ordinance that
13 says that?

14 A. No, I think they just call it --
15 they refer to the cliff as far as a distance.
16 That's all I recall is the word cliff.

17 Q. So we talked about the -- and I know
18 we went over the rear setback, you did on your
19 geotechnical studies, you drew the rock below
20 grade?

21 A. Yes.

22 Q. So it's your position that when you
23 calculate that rear setback at the first floor
24 level you go subterranean to hit the rock, is
25 that --

Celeste A. Galbo, CCR, RMR

□

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1 A. No, that was your definition and I
2 was just showing you what the distance was based
3 on your question to me.

9-29-10 Applevue (2)

4 Q. Okay. Well, do you go subterranean,
5 I guess?

6 A. We measured from the first floor
7 back to where we would find rock because there's
8 a definition of the building should be set back
9 40 feet from the cliff and what I had put on the
10 drawing a dimension of over 100 feet the cliff as
11 we saw it on the property. So for two-thirds of
12 the building we went back the 40 feet, the rock
13 was below the first habitable floor area. There
14 was one section that I said was at the end of
15 this paved driveway that we found where that rock
16 was above the first residential floor.

17 Q. Okay. Now when you went back, and
18 again I asked this and I just forget, did you go
19 perpendicular with the first floor level, you
20 went straight back or did you go on the
21 hypotenuse --

22 A. No, no, no, no. To answer your
23 question about how far from the back rear wall of
24 the building to the rock --

25 Q. Right.

Celeste A. Galbo, CCR, RMR

□

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1 A. -- we would go horizontal. I'm not
2 going to go on a diagonal. So -- and that rock
3 that we found above the first floor at the end of
4 this driveway was 30 feet behind the building.

5 Q. Now, are you aware that I sent to

9-29-10 Appview (2)

6 the board in submissions the environmental
7 reports on the condition of the soil of the
8 subject property?

9 A. I did not know you sent them. I'm
10 aware there's some reports.

11 Q. And are you aware those reports
12 recommended certain DEP reviews?

13 A. Vaguely.

14 Q. In a usual case if soil has
15 hazardous waste or contamination, doesn't that
16 pose a requirement that the applicant get an
17 approval from the DEP to make sure that they can
18 construction residential dwellings on property
19 that has hazardous waste?

20 A. Or any waste. I don't know if
21 hazardous waste is a certain classification.

22 Q. Right, I should say hazardous waste,
23 contamination, dirty soil.

24 A. There is no hazardous waste on this
25 site but I am aware that there may be some

Celeste A. Galbo, CCR, RMR

□

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1 contamination, and I'm aware that the applicant
2 is addressing that.

3 Q. Okay. And how is the applicant
4 addressing that?

5 A. I think there's a study being done.
6 I'd defer to the attorney.

7 Q. And you haven't seen that study yet?

8 A. No.

9-29-10 Appreview (2)

9 Q. And so when you put on the
10 application -- the application has a box for
11 other permits?

12 A. Oh, for this, yes.

13 Q. On the application of the developer
14 to the planning board, the application has other
15 permits and it has a wide range of DEP permits
16 and it has other permits?

17 A. Okay.

18 Q. And the other permits box is not
19 checked. Is it your testimony that based upon
20 your understanding there is a need for a DEP
21 permit?

22 MR. ALAMPI: I'm going to object.
23 If there is, there is. We haven't made that
24 determination. Mr. Lamb just hours before the
25 last public hearing dug up some reports that the

Celeste A. Galbo, CCR, RMR

□

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1 Galaxy commission some 12 years ago -- but we'll
2 investigate.

3 MR. MUHLSTOCK: The answer is if he
4 knows, he can answer the question.

5 A. Regardless, I would not put
6 environmental permits on a land use form. I
7 would just address land use permits because the
8 environmental permit is really not germane to a
9 land use application. So I would not have put it
10 even if I knew that there was a, you know, some

11 kind of clean up.

12 MR. MUHLSTOCK: While Mr. Lamb is
13 thinking, how long is your next witness going to
14 be, approximately, on direct?

15 MR. ALAMPI: Well, it's already 20
16 to nine.

17 THE CHAIRMAN: That's --

18 MR. ALAMPI: And perhaps if she can
19 absorb the line of questioning she can gather her
20 thoughts, so we'll bring her on for the next
21 meeting because by the time we conclude I think
22 the public is going to ask questions, right?

23 THE CHAIRMAN: Okay.

24 MR. ALAMPI: As a matter of fact, I
25 would think that we won't reach her at all then,

Celeste A. Galbo, CCR, RMR

□

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1 so he we'll carry her.

2 THE CHAIRMAN: Okay, thanks. You
3 got a reprieve.

4 MR. LAMB: I have some questions
5 which I'm going to save for her and try to get
6 through this.

7 Q. One of the other recommendations of
8 the board engineer is to get the Williams
9 maintenance manual, Mr. McGrath had put that in
10 his report. Is that something you've requested
11 or provided to the board yet?

12 A. I think we had it and he wanted to
13 get it and we were going to give it. Oh, let me

14 back up. Now I recall.

15 Williams wanted us to put a note
16 that the construction will be done in accordance
17 with their manual and Mr. McGrath asked for a
18 copy of it. We have not gotten a copy it yet
19 but, frankly, I haven't asked for it yet. We
20 figured that would come in the next round of
21 discussions with Williams, we'll get their
22 maintenance manual.

23 Q. Now, I am going to divert to one
24 technical question on the Storm Water Drainage
25 Analysis. You indicate on one of the

Celeste A. Galbo, CCR, RMR

□

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1 calculations you have existing -- it's on sheet
2 number 1 of 6, one of the calculations you show
3 rock slope existing of 44,075 square feet --

4 MR. ALAMPI: Where are you referring
5 to?

6 MR. LAMB: I'm referring to page 4
7 of the Storm Water Drainage Analysis, last
8 revised August 31, 2010.

9 MR. ALAMPI: Page 4?

10 MR. LAMB: Correct.

11 Q. You'll see existing and then
12 proposed, it says rock slope.

13 A. Okay.

14 Q. Can you explain that calculation for
15 me, how rock slope was calculated in the Storm

9-29-10 Appleview (2)
16 Water Drainage Analysis?
17 A. That is to indicate the area that's
18 the steep part of the site, 44,000 square feet is
19 over an acre which would be this whole back area.
20 Q. Rounds numbers, that's half the
21 site?
22 A. Yes. But what the purpose of this
23 was to say it was a slope and there were rocks on
24 it. It's not to imply that it's mountain. It's
25 supposed to imply that it's rocky conditions and,

Celeste A. Galbo, CCR, RMR

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1 you know, and just the rate of runoff associated
2 with that.
3 Q. So that's not -- in your definition
4 that's not part of the Palisades, that acre
5 there?
6 A. No. No, no.
7 Q. That's my only question.
8 A. Good.
9 MR. ALAMPI: Was that really your
10 last question?
11 MR. LAMB: No, just on the storm
12 water management.
13 MR. ALAMPI: You got my hopes up. I
14 knew it was too good to be true.
15 Q. Now, with respect to the site plan
16 is it fair to say that the road that you located
17 in the back, that's not shown on the site plan or
18 existing conditions?

9-29-10 Appreview (2)

19 A. I think it's indicated as a path on
20 one of the plans, probably on the survey we
21 indicated it as some path. We did not know it
22 was paved.

23 Q. The access on the northerly part, is
24 that shown on the site plan, the proposed access?

25 A. Well, when you look at the existing

Celeste A. Galbo, CCR, RMR

□

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1 condition plan --

2 Q. Just give us the number on the
3 bottom of the page.

4 A. Well, it's C-2.1 and I think we had
5 something, but it just showed that there was, the
6 way the ground sloped -- it was more gentle, it
7 more gentle as you go across the slope from the
8 proposed northwest corner of the building moving
9 in a southerly and westerly direction.

10 Q. On the northerly side the 20 foot
11 access that Transco wanted, is that shown as an
12 access on that site plan?

13 A. Yes, it's shown on the site plan not
14 on the grading plan, it would have been too busy.
15 But on the other site drawings it's indicated
16 that the path is indicated where the easement
17 would be.

18 Q. Now, we had some questions, and
19 again I'm not going to repeat this, we had some
20 questions about the front setback and the

21 distance from the right-of-way. Do you recall
22 those questions?

23 A. Yes.

24 Q. And you heard the board's planner at
25 the time say that there's a sidewalk there

Celeste A. Galbo, CCR, RMR

□

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1 there's existing?

2 A. Yes.

3 Q. Okay. What's the proposal to
4 address that existing sidewalk on the plan?

5 A. We're going to repair the sidewalk
6 and relocate it in some areas.

7 Q. Okay. Is it fair to say that you're
8 replacing the sidewalk and building a new
9 sidewalk?

10 A. Yes.

11 Q. So that's not repaired, you're
12 replacing, putting in an entirely new sidewalk on
13 the front of the property, are you not?

14 A. I'll confirm that. Yes, we are
15 going to replace the entire sidewalk along the
16 frontage of the property.

17 Q. So there is no reason that you're
18 aware of where you couldn't keep the 15 foot
19 setback from the right-of-way and put the new
20 sidewalk in that area? Is there any engineering
21 reason why you couldn't do that?

22 A. In the setback on the property?

23 Q. In that 15 foot area that is

24 measured from the right-of-way to the project,
25 that distance, is there any engineering reason

Celeste A. Galbo, CCR, RMR

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1 why you can't put the sidewalk in that 15 foot
2 area?

3 A. Well --

4 MR. ALAMPI: I'm going to object the
5 to the question, Mr. Chairman. I'm raising an
6 objection. I just had to review my notes, I
7 thought that the issue was the curb line and not
8 the right-of-way. So I raise my objection to
9 Mr. Lamb's question.

10 MR. LAMB: If you look at the
11 transcript I believe the ordinance provided for a
12 15 foot of the right-of-way, although I'll
13 double-check.

14 MR. ALAMPI: I thought it was the
15 curb line and that's the whole discourse with
16 you.

17 MR. LAMB: It could be.

18 MR. ALAMPI: That's the nature of my
19 objection. Jill?

20 MS. HARTMANN: I'm looking. I'm
21 trying to find my report.

22 MR. LAMB: It's 11-6, Section C-1.

23 MR. MUHLSTOCK: Mr. Bertin you
24 previously indicated in the last hearing that the
25 calculation was from the -- your calculation was

Celeste A. Galbo, CCR, RMR

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1 from the curb line?

2 THE WITNESS: That's correct because
3 it says "no front yard will be required." So
4 that's from the property line.

5 Q. Since you said no front yard was
6 required, would you finish the sentence?

7 A. Yes, "other than that necessary to
8 comply with the standards cited in that section
9 and to provide a 15 foot setback for paved
10 sidewalk to be installed by the developer."

11 Q. Are you aware of how they calculate
12 front setbacks in the tables, the diagrams in the
13 back of the zoning ordinance?

14 A. Yes, but in this case for the table
15 for this zone it says "front yard see note" and
16 then it sends you around the ordinance and
17 eventually you get to that section I just cited.

18 MS. HARTMANN: Yes, that is correct.

19 A. So I interpreted that as no setback
20 is required but a 15 feet for a walkway and there
21 was a discussion in another section I recall
22 about having a walkway. So there's a sidewalk.

23 Q. How big is a sidewalk usually?

24 A. Four feet.

25 Q. And if there was a 15 foot

Celeste A. Galbo, CCR, RMR

1 requirement in municipalities that have a
2 requirement is the difference to have a little
3 shoulder on each side?

4 MR. ALAMPI: I'll object. I don't
5 even see how that could be relevant.

6 MR. MUHLSTOCK: I would agree on
7 that one, Mr. Lamb.

8 MR. LAMB: Okay.

9 Q. Now, you talked about the -- there
10 was some discussion in your drainage reports or
11 your cover letter that there was I guess it's a
12 tidal gate and you and Mr. McGrath disagreed as
13 to whether to have the tidal gate installed?

14 A. Actually it's his engineer and my
15 engineer.

16 Yeah, we were just talking about
17 water backing up into our drainage system and
18 into our detention system and --

19 Q. Is that the one that you showed
20 pointed in the middle, the very middle of the
21 property?

22 A. Yes. And it's just a matter of
23 opinion. If it turns out that they would --
24 whether or not water could back into the property
25 and cause silt to come into the site and then

Celeste A. Galbo, CCR, RMR

□

1 impact our detention system.

2 Q. What is the water elevation, the
3 groundwater elevation at the current time on the
4 property?

5 A. Six, I'm going to say it's elevation
6 six. So it's about six feet below grade, that's
7 what I recall.

8 Q. And what is the elevation of the
9 proposed detention system?

10 A. Let's see, okay, now I'm going to
11 have to go back and check. Because it says the
12 stone elevation at the bottom of the detention
13 system is at elevation five. And I just have to
14 look at the geotechnical report to see what the
15 groundwater elevation is.

16 Okay, ground water elevation it says
17 five. So that was set up at the -- so the water
18 elevation which I imagine is influenced by the
19 tide and I'm not sure when that was done is
20 around the bottom of the detention system.

21 Q. And is it fair to say that there are
22 usually requirements to have detention basins
23 that are a couple feet above the water elevation,
24 isn't that how they're usually designed?

25 A. Yes, in certain cases, yes, it would

Celeste A. Galbo, CCR, RMR

□

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1 be.

2 Q. So in this case there is no extra
3 distance between the water elevation and the
4 bottom of the detention system?

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5 A. That's correct.

6 Q. And is it fair to say that that's
7 unusual when you would design a storm water
8 management system?

9 A. Yes, except for the fact that we're
10 along the Hudson River. But I don't think that's
11 been an issue that's been raised with the
12 engineer in this case.

13 Q. Well, we're waiting for his
14 comments.

15 A. Well, there have been one round of
16 comments. Now he's got to take notes and go back
17 to his staff.

18 Q. Now, there's a requirement, is there
19 not, for a landscaping buffer, the buffers are
20 required to be landscaping?

21 A. Yes, there is a requirement for
22 landscaping, yes.

23 Q. In the buffer area?

24 A. I'm not sure what buffer is
25 required.

Celeste A. Galbo, CCR, RMR

□

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1 Q. If you want to go back to the site
2 plan and not drainage plan, that's fine.

3 A. Actually I'm going to go to a
4 different plan. Let's do this.

5 Q. Whichever one you want to go to.

6 A. I'm going back to Exhibit A-5 which

7 was the landscape rendering. I don't know that
8 we had a required buffer area, but we put
9 landscaping on the south side of the property. I
10 had landscaping on the north side of the property
11 but everybody asked me to remove it, so we took
12 it out.

13 Q. Okay. And who asked you to remove
14 it, everybody?

15 A. Transco in particular.

16 Q. Okay.

17 MR. MCGRATH: For the record,
18 Mr. Chairman, my office raised that question
19 also. We do not want trees in the area where we
20 might have to dig because then the trees are an
21 inconvenience, they're a burden to the pipe. So
22 we raised the question in one of my letters.

23 THE CHAIRMAN: Thank you.

24 Q. And is there -- other than trees is
25 there any other landscaping proposed in that

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1 area?

2 A. No, just lawn.

3 Q. Now, you measured the side yard on
4 the site plan as 22.7 feet on average, I believe?

5 A. Yes, along the south side.

6 Q. How did you make that measurement?

7 A. We took the closest corner to the
8 east side property line along the south wall of
9 the building and then the furthest point along

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10 the south wall of the building perpendicular to
11 the south property line.

12 Q. What intervals did you take it?

13 A. Just took the front and the back,
14 took the average.

15 Q. You didn't do any intervals?

16 A. No, it's a straight line. It's two
17 straight lines. If we did it at more intervals,
18 the answer would be the same.

19 Q. And that calculation is not shown on
20 the site plan, other than it's just an average of
21 two numbers?

22 A. Well, we show the two numbers and
23 then the average. We could calculate what that
24 is, confirm it.

25 Q. Now, are any of the architectural

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1 features of the building located in the yards,
2 front yards, side yard or rear yard?

3 A. I'm going to have to defer to the
4 architect, I know there might be some balconies
5 but I don't recall right now.

6 Q. Do you want to look on the site
7 plan? It won't show up on the site plan that you
8 prepared?

9 THE CHAIRMAN: Mr. Lamb, just so we
10 get some idea how much longer you're going to go,
11 how much longer are you going to go?

12 MR. LAMB: I think I'm almost done,

13 Mr. Chairman.

14 THE CHAIRMAN: All right.

15 A. I just looked at the architectural
16 plan and there are no balconies.

17 Q. Any other architectural features? I
18 know there was some originally in the proposal in
19 the northwest corner.

20 A. Northwest corner, that's in the
21 back?

22 Q. Yes.

23 A. No, I don't see any features, just a
24 flat wall. There are no protrusions beyond the
25 wall of the building.

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1 MR. LAMB: Thank you I have nothing
2 further for this witness right now, Mr. Chairman.

3 THE CHAIRMAN: Okay. I'm going to,
4 given the lateness of the hour, folks, I'm going
5 to allow three questions -- I'm sorry, three
6 people asking questions. Please restrict it to
7 questions from the public. Anyone? Yes, there's
8 one. Please come forward, state your name and
9 address for the record and be sworn in.

10 MR. ALAMPI: Chairman, if I might,
11 when the witnesses or the objectors give their
12 address, I'm not sure if it's the entire building
13 or a particular apartment unit. It would be
14 helpful for me to know what apartment they're in

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15 and what tower, there are three towers and I
16 think 1200 units. I certainly understand he
17 occupies only one unit but if you could, identify
18 that.

19 JEREMY RABIN, residing at 7004 Boulevard East,
20 Apartment 9C, Tower 3, Guttenberg, New Jersey,
21 having been duly sworn by the Notary Public, was
22 examined and testified as follows:

23 THE CHAIRMAN: Yes, sir. Question?

24 THE WITNESS: Okay. One of the
25 areas where the public is very concerned about

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□

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1 this project is the matter of the gas pipeline
2 and that being particularly a very large
3 pipeline, 36-inc high pressure, 800 PSI gas
4 pipeline supplying over half of Manhattan's
5 natural gas which is quite a lot. So I'm
6 concerned, I'm one of the people who would be
7 killed probably if that pipeline were to explode
8 and that's one of the reasons for five years I've
9 been coming to these hearings.

10 I understand that you say you're not
11 an expert on this, but you did design this
12 building in very close proximity to the pipeline,
13 and I would hope that you did some study on this
14 in preparation.

15 Can I ask you, are you familiar with
16 the Edison explosion which happened in 1994?

17 MR. BERTIN: Yes.

18 THE WITNESS: That was a similar
19 size gas pipeline and it was damaged by some
20 careless excavation on the property.

21 For our understanding based on this
22 map and the scale of this map, could you tell us,
23 just very roughly, about how far away from that
24 pipeline a third of a mile would be within the
25 context of the room that we're in right now,

Celeste A. Galbo, CCR, RMR

□

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1 roughly?

2 MR. BERTIN: Well, a third of a
3 mile? This is only 200 feet?

4 THE WITNESS: Right.

5 MR. BERTIN: So we're only
6 showing --

7 THE WITNESS: No, I understand it's
8 a big space but do you know roughly? I can't do
9 the math in my head so I thought you might be
10 able to. Just very approximate.

11 MR. BERTIN: I guess it would be go
12 to the traffic light if you head south and maybe
13 traffic light heading north, so, yeah.

14 THE WITNESS: But I'm saying that
15 this scale inside this room how big would that
16 be? That's why I'm asking.

17 MR. BERTIN: It's too big.

18 THE WITNESS: Very roughly, I won't
19 hold you to it if it's off.

20 MR. MUHLSTOCK: No, that's
21 irrelevant. He answered the question, a third of
22 a mile in his opinion, his rough estimation would
23 be traffic light to traffic light. He doesn't
24 have to answer it based on that drawing in this
25 room.

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1 THE WITNESS: I wasn't asking that
2 he had to answer it, I thought if he could give
3 me a rough approximation that it would be helpful
4 for all of us.

5 When the Edison pipeline was
6 ruptured there was an initial explosion and then
7 there was a sustained fire that burned for quite
8 a period of time.

9 Do you know that the explosion
10 knocked down brick buildings as far as away as a
11 third of a mile?

12 MR. ALAMPI: Mr. Chairman,
13 respectfully I don't know what the Edison
14 catastrophe has to do with this. I think we all
15 recognize that a high pressure gas line is a
16 unique situation. But I don't think it's germane
17 to this line of question.

18 THE WITNESS: Is it unique to this
19 property?

20 MR. ALAMPI: Am I being questioned?

21 MR. MUHLSTOCK: If you want to ask

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22 the engineer some questions, you can ask the
23 engineer some questions. They have to be
24 relevant to the application. Okay? Questions
25 about the Edison blast are not relevant to this

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1 application. We all understand --

2 THE WITNESS: But are the high
3 pressure -- I'm sorry.

4 MR. MUHLSTOCK: You can ask
5 questions but keep it to the relevancy this
6 application.

7 THE WITNESS: What I'm asking you if
8 that was a high pressure gas pipeline and this is
9 a similar high pressure glass pipeline that was
10 ruptured by careless digging in a residential
11 area, most pipelines explode in rural areas away
12 from residential, so are you saying that there
13 isn't any relevance of this pipeline?

14 MR. MUHLSTOCK: Ask the engineer a
15 question that's relevant to his engineering
16 testimony, not to explosions which occur on other
17 properties or have occurred.

18 THE WITNESS: Okay. Based on
19 previous explosions, if this pipeline on this
20 property were to explode, could we surmise that
21 brick buildings a third of a mile away could be
22 knocked down by that explosion?

23 MR. ALAMPI: I just need to --

24 THE CHAIRMAN: I think he just
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25 answered, he said he doesn't know.

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1 MR. BERTIN: I can't answer that
2 question.

3 THE WITNESS: I would like to put on
4 the record that it could be well documented that
5 at Edison that did happen.

6 MR. MUHLSTOCK: The more relevant
7 question I think for what you want to know is, is
8 this construction 20 feet from this gas line in
9 your opinion as an engineer safe.

10 MR. BERTIN: Yes, in addition to
11 that Williams Company will be here --

12 MR. MUHLSTOCK: It was already asked
13 by Mr. Lamb --

14 MR. LAMB: It was already asked and
15 it was answered in two, three different ways now,
16 Mr. Muhlstock. This is the fourth way.

17 MR. MUHLSTOCK: The record will
18 reflect what the record will reflect.

19 THE WITNESS: May I ask what your
20 building is made out of again? I believe you
21 said wood and some other interiors on the first
22 two floors.

23 MR. BERTIN: The architect testified
24 to that, what the materials are. Part of the
25 building is wood, part of the building is

1 concrete.

2 THE WITNESS: Okay. Well, I think
3 that from 20 feet away a blast comparable to what
4 this kind of pipeline is capable of sending out
5 is highly questionable that this building will be
6 standing. And that was the reason that I was
7 mentioning that even a third of a mile away brick
8 buildings were knocked down. This building is
9 not even entirely made out of brick, so I would
10 imagine wood would be less sturdy.

11 The other concern with a gas
12 pipeline explosion is the fire and continuous --

13 THE CHAIRMAN: Let me ask if you
14 have another question for the witness.

15 THE WITNESS: Yes, about the fire.
16 The flame was able -- of a pipeline of this type
17 normally sends out heat that at a half mile
18 radius emergency workers are not able to enter
19 into that space. We just had the San Bruno
20 tragedy which was a smaller fire --

21 MR. MUHLSTOCK: All right,
22 sustained.

23 MR. ALAMPI: See --

24 MR. MUHLSTOCK: These are all
25 speculative and we all understand where you're

1 going and the concerns that you may have with
2 respect to what if. Honestly, it's all really
3 speculative, it's not really germane to this
4 witness's testimony. I'm sorry.

5 THE WITNESS: Could you just define
6 speculative? These are factual instances --

7 MR. MUHLSTOCK: Factual on different
8 properties in different buildings in different
9 scenarios, not here. This is a what if. We
10 don't deal with what-ifs like this.

11 A VOICE: Why not?

12 THE WITNESS: Well, a lot of the
13 people who are here are afraid -- they have been
14 coming here for five years because they were
15 saying that something like San Bruno could have
16 happened and people were saying it's just
17 speculative, it couldn't really happen. Well, it
18 just happened in San Bruno. I think we all saw
19 the news footage of that. Those are real
20 instances and that was a pipe that's probably a
21 third the size of this one. So whether this
22 building --

23 MR. MUHLSTOCK: I think you made
24 your point. That's your point. Your point is
25 that you believe that this is unsafe

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□

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1 construction. That's your point, correct?

2 THE WITNESS: I'm trying to find out

3 --

4 MR. MUHLSTOCK: Is that your point?

5 THE WITNESS: I'm trying to find out
6 on what basis Mr. Bertin thinks that this is
7 safe.

8 MR. MUHLSTOCK: He already said --

9 MR. BERTIN: I'll give you the
10 answer, it's simple. My concern is that we keep
11 equipment away from the pipe. If equipment is 25
12 feet or 20 if the away from the pipe it's highly
13 unlikely that an excavator is going to swing over
14 and hit or damage the pipe. So when I say safe,
15 we're staying far enough away from the pipe so it
16 won't be disturbed. The other thing is Williams
17 will be on site the entire time. Every time
18 there's been a backhoe on this site, every time
19 there's been a drill rig on this site, Williams
20 has had an inspector there watching and that's
21 going to happen during this project.

22 THE CHAIRMAN: Folks, please.

23 THE WITNESS: Well, you said the
24 excavators would be that far away. Does that
25 mean that the excavators will be on top of your

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□

1 building during the construction? Because the
2 space inside here is such that I would imagine
3 any vehicles that move along the side of the
4 building would be much closer --

5 MR. BERTIN: The excavators are only
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6 going to be on site until we start the building.
7 There will be a little bit of work done in the
8 back of the building after the walls go up. But
9 generally the excavation is done before the
10 building goes up. And just remember that
11 Williams asked us to provide this access for
12 their tractors and excavators to get up the hill
13 to maintain the line. So Williams asked for an
14 access easement adjacent to the pipe so they
15 could run construction equipment up there.

16 THE WITNESS: I'd like to thank the
17 board for giving me the time to ask these
18 questions. There are a lot more questions that
19 I'd like to ask, I won't at this time, but I
20 would say there's a major concern in the public
21 about gas pipelines. And I think that it has to
22 be dealt with on a much more serious level to
23 make people feel comfortable with this building.
24 Thank you.

25 THE CHAIRMAN: Ms. Wong.

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1 MS. WONG: Mr. Chairman, considering
2 that this man represents a complex that is that
3 is in immediate danger if there is any explosion
4 and he has done the research, I would like to
5 defer my three questions to him and let him
6 continue to question Mr. Bertin. I also would
7 like, if you would, to bring Mr. Bertin back for

8 the next session because there are a lot of OTHER
9 people here with a lot more questions and you
10 limiting us to just three questions and three
11 people is really unfair.

12 A VOICE: Right on. Right on.

13 THE CHAIRMAN: Do you have any
14 problem bringing him back?

15 MR. ALAMPI: Mr. Mayo, you know
16 we've at our own expense have continued to bring
17 each of the witnesses repeatedly even though they
18 have been questioned by the public, by counsel
19 and others. We've returned them and we're
20 attempting to keep this in a coherent fashion.
21 Even when we break down to different disciplines
22 we've returned. For example, the architect is
23 here tonight and I didn't expect him to be asked
24 any questions, so we're recalling all witnesses
25 all the time but to say this gentleman is

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1 representing the Galaxy, I thought Mr. Lamb was
2 representing the Galaxy.

3 THE WITNESS: Since I've been
4 addressed --

5 MR. MUHLSTOCK: Don't answer that.
6 We're not going to hear that. The public is
7 going to ask the questions, Mr. Alampi --

8 MR. ALAMPI: I don't interrupt
9 people. Please don't interrupt me.

10 MR. MUHLSTOCK: The board of
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11 directors may have, may, I can conceive right now
12 --

13 MR. ALAMPI: The case law is clear
14 on this. The Municipal Land Use Statue is very
15 clear on this, when a party is represented by
16 counsel as a member of an organization, as a
17 shareholder of a corporation, as a member of a
18 nonprofit condominium association, and through
19 their board of directors exclusively has the
20 right and obligation to represent the corporate
21 community hires eminent and vigorous
22 representation, then the individuals are
23 represented through that individual. I am now
24 litigating this issue in Jersey City with the
25 embankment coalition. So it's a very clear-cut

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1 test. I'm not saying that the individual should
2 not be able to ask questions, I'm saying that one
3 individual does not represent the association
4 other than of course my adversary.

5 MR. LAMB: I want to place this on
6 the record, and I know we've gone through this
7 before. I represent the Galaxy Towers
8 Condominium Association, Inc. Their board of
9 directors give me authority. I do not represent
10 any individual member. The individual member
11 could disagree totally with the position of the
12 condominium association. When you give notice,

13 they have to give notice to the individual
14 property owners that own units within 200 feet
15 and the condominium association for the common
16 elements. So I've asked the Galaxy people, I
17 would appreciate if they go through me but I
18 can't demand them to.

19 MR. MUHLSTOCK: We're all in
20 agreement. The individuals could ask questions,
21 the gentleman does not represent --

22 MR. ALAMPI: That's all.

23 MR. MUHLSTOCK: -- everybody, that's
24 what you're saying.

25 MR. ALAMPI: And all I'm saying if

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1 40 people want to each individually ask their
2 proper question, I'm not debating their right to
3 speech or their right to assemble or petition
4 their government. That's they're God given and
5 constitutional right. I'm just saying let's not
6 hash this all together about who represents who.

7 THE CHAIRMAN: All right.

8 MS. WONG: Chairman Mayo, I would
9 like to say I am a North Bergen resident but I
10 would like to defer my time tonight, my three
11 questions tonight if you're recognizing me, back
12 to Jeremy and let him continue questioning the
13 witness.

14 THE CHAIRMAN: Let me ask is there
15 anyone else that wants to speak?

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16 (No response.)
17 THE CHAIRMAN: All right, you get
18 three more and that's it. But questions, please.
19 MR. ALAMPI: Mr. Chairman,
20 Mr. Chairman, just for the record, can we have
21 the objector, madam objector identify herself.
22 She speaks out of the chamber without identifying
23 her name or address. I'm entitled to know that.
24 And then if she wants to so-called transfer her
25 speech to a resident of Guttenberg --

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1 THE CHAIRMAN: Ms. Wong, would you
2 state your name and address for the record.
3 MS. WONG: Peggy Wong, 8550
4 Boulevard East, North Bergen, New Jersey and that
5 is the whole truth and the sole truth.
6 THE CHAIRMAN: Thank you.
7 THE WITNESS: I would like to
8 mention there are people that are concerned about
9 this project who are from many other housing
10 complexes, townhouses, they're from North Bergen
11 as well as Guttenberg.
12 THE CHAIRMAN: I'm going to stop you
13 right there. Question.
14 THE WITNESS: Yes, here we go. I
15 understand there are going to be pilings driven
16 into the ground to support this building
17 structure.

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18 MR. BERTIN: Yes.

19 THE WITNESS: And these would be,
20 they might be wood pilings or metal poles filled
21 with concrete is it, and then the back there
22 would be metal footings.

23 MR. BERTIN: Lisa will answer it but
24 I'm pretty sure there would be wood piles in the
25 front and building would be on the rock in the

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1 back.

2 THE WITNESS: And there may be some
3 small boulders, rocks, things down underground
4 that when you're driving these, how much force do
5 you need? I know there's a hammer device that
6 you'd be using.

7 MR. BERTIN: I'm going to defer that
8 to someone else. Let Lisa answer that question.

9 THE WITNESS: Okay. And the
10 generally I've observed these pile driving
11 devices sometimes they may operate for weeks or
12 months to put in all the pilings. Does that
13 generally create a fair amount of minor vibration
14 underground through the rocks and soil?

15 MR. BERTIN: Again, Lisa would be
16 bet. I'm not trying to -- I'm just saying she's
17 the expert and you should ask that question of
18 her.

19 THE WITNESS: Okay. Well, then I
20 may have to come back up for those questions.

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21 obviously I'm concerned 20 feet away from the gas
22 pipeline.

23 well, I had some questions about
24 whether there was any sort of an evacuation plan
25 that you had in mind when you designed this

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1 building. If there was concern of flooding in
2 the area, it's a low area, or if there was gas
3 smell at some point and you need to evacuate.

4 MR. BERTIN: I'll answer that
5 question two ways, one, the architect has
6 designed this per codes as far as access and he
7 can better tell you how people can move through
8 the building but there are codes to address that.
9 As far as flooding, we have the building a couple
10 feet above the hundred year flood elevation. So
11 the idea is that you shouldn't have to evacuate
12 your home in the case of a flood and, again,
13 we're a couple feet above the flood elevation.

14 THE WITNESS: But if a storm were to
15 come, I'm just creating a hypothetical scenario,
16 would there be an evacuation plan for this
17 building?

18 MR. BERTIN: I guess just like any
19 other home, we haven't set anything particular
20 but just like any other building along the coast.

21 THE WITNESS: Are there access exits
22 in the back or sides or is it primarily would the

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23 main entrance be in the front?
24 MR. BERTIN: There's stairs in the
25 front and in the middle of the building. Some of

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1 those stairs come out through the garage, but
2 there are several access points, whatever the
3 code requires and they're on the architectural
4 plans.

5 THE WITNESS: Okay. Well, to the
6 gas pipeline concern, one of the serious concerns
7 is that a flame that would be generated by a
8 pipeline of this size would likely be about 300
9 feet or more high. And the heat is extremely
10 intense and we want to know how you would
11 imagine, assuming this building withstands the
12 shock of the explosion how you expect the people
13 inside there to escape. Obviously we don't want
14 a gas accident to happen and you're going to try
15 to not have that happen, but they do happen
16 especially with old pipes, this is a very old
17 pipe, at least 50 years old, like which is like
18 the San Bruno pipe in age. So I want to know how
19 you would envision people evacuating the building
20 under those circumstances?

21 THE CHAIRMAN: I think he's already
22 answered that the architect would be better
23 suited to answer that question.

24 THE WITNESS: Okay. Well --

25 MR. FERNANDEZ: All I was going to
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1 tell you is no different than your evacuation
2 plan the three towers in the Galaxy. When
3 there's a fire in the Galaxy, the elevators
4 recall down, you go down the stairs.

5 THE WITNESS: One difference is the
6 Galaxy does have exits that go under the top of
7 the Palisades.

8 MR. FERNANDEZ: These both buildings
9 based on what I've seen have egress right to the
10 street.

11 THE WITNESS: Yes, but the street
12 would be on the level where the main fire would
13 be.

14 MR. FERNANDEZ: That's you know,
15 what do you do?

16 THE WITNESS: Well, it is -- there
17 are a number of --

18 MR. FERNANDEZ: I can't answer that.

19 THE WITNESS: There are a number of
20 areas in the U.S. that do regulate that buildings
21 should be, you know, hundreds of feet away from
22 pipelines.

23 MR. FERNANDEZ: It suppressed. It
24 has sprinkler systems, so I can't answer that
25 question?

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1 THE WITNESS: I do think that the
2 tower three of the Galaxy was built too close to
3 the pipeline along with the sewerage treatment
4 plant and many other structures. The hospital
5 also is too close.

6 MR. BERTIN: And you realize this
7 pipeline runs right through the downtown?

8 THE WITNESS: Yes, and the Summit
9 House also.

10 MR. BERTIN: Right through the
11 neighborhood.

12 THE CHAIRMAN: Okay, folks, thank
13 you. We have to set --

14 MR. ALAMPI: The next hearing date.

15 THE CHAIRMAN: -- the next hearing.
16 October 21st or 28?

17 (Discussion off the record.)

18 MR. LAMB: Mr. Chairman, just to put
19 on the record I'm taking back my copy of O-1.

20 THE CHAIRMAN: Ladies and gentlemen,
21 the next meetings on this application will be on
22 October 21st, it's a Thursday, and November 11th
23 which is also a Thursday. You will not receive
24 new notice of those dates so please make note of
25 it tonight. This is your notice I'm giving you

Celeste A. Galbo, CCR, RMR

□

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2 If you'd listen instead of talking, you'll hear,
3 October 21st and November 11. Okay.
4 The chair will entertain a motion for
5 adjournment.
6 MR. FERNANDEZ: I make a motion.
7 MS. BARTOLI: Second.
8 THE CHAIRMAN: Moved a seconded.
9 All in favor.
10 (Chorus of ayes.)
11 THE CHAIRMAN: Meeting stands
12 adjourned.
13 (Time noted: 9:24 p.m.)
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6	CALISTO BERTIN		
	Direct - Mr. Alampi		10,25
7	Voir Dire - Mr. Lamb		22
	Voir Dire - Mr. Alampi		24
8	Cross - Mr. Lamb		46
9	JEREMY RABIN		83

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EXHIBITS

	Applicant's	ID	Evid.
	Exhibit 8 Storm Water Drainage Analysis with a revision date of August 31, 2010	6	45
	Exhibit 9 Grading, Drainage Utility and Soil Erosion Control Plan with a revision date of August 31, 2010	6	45
	Exhibit 10 Traffic Impact Study	6	
	Exhibit 11 Preliminary Geotechnical Report updated and revised through June 10, 2010	6	
	Exhibit 12 Preliminary Geotechnical Engineering Report dated September 16th, 2010	7	

Celeste A. Galbo, CCR, RMR

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1	Objector's	ID	Evid.
2			63
3	Exhibit 1 Drawing C-2.3		

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9-29-10 Appview (2)

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Celeste A. Galbo, CCR, RMR

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1 CERTIFICATE
2 STATE OF NEW JERSEY)
3 COUNTY OF BERGEN) :ss
4 I, CELESTE A. GALBO, a Certified
5 Court Reporter and Notary Public within and for
6 the State of New Jersey do hereby certify:
7 That all the witnesses whose
8 testimony is hereinbefore set forth, was duly

9 9-29-10 Appleview (2)
10 sworn by me and that such is a true record of the
11 testimony given by such witnesses.

12 I further certify that I am not
13 related to any of the parties to this action by
14 blood or marriage and that I am in no way
15 interested in the outcome of this matter.

16 In witness whereof, I have hereunto
17 set my hand this 11th day of October 2010.
18

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20 CELESTE A. GALBO
21 License No. 30X100098800
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25

Celeste A. Galbo, CCR, RMR